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Ontario Insurance Commission
(Financial Services Commission of Ontario)

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SUMMARY OF DISCUSSION PAPER ON REGULATION OF INSURANCE DISTRIBUTION AND COORDINATION OF FINANCIAL SERVICES REGULATION IN ONTARIO

ISSUE:

·How should Ontario's system of regulation of insurance distribution be changed to ensure that it is harmonized and coordinated with the regulation of distribution of other financial services, provides the least restrictive regulatory alternative necessary to achieve articulated consumer protection goals, and is consistent with the Government's commitment to efficient industry based regulation?

CONSUMER PROTECTION GOALS:

·The purchase of insurance and other financial products affects individual and societal wealth. There is a public interest in regulating distribution activity to assure that when insurance and other financial products are purchased, consumers

- do not suffer losses resulting from misleading or dishonest sales practices,

- have sufficient information to enable them to make informed purchasing decisions,
- know what they bought and who they are contracting with,
- know who is accountable for the seller's actions in a sales transaction,
- know how to seek redress for problems arising out of a sales transaction, and
- can get redress for losses arising out of sales misconduct quickly and inexpensively.

GUIDING PRINCIPLES:

·The law and regulatory systems governing distribution of all financial products should be harmonized and coordinated to the extent possible, both within Ontario and across Canada. This principle must be applied with some flexibility because in some instances, laws or regulatory systems will benefit from national harmonization and in other instances, provincial harmonization will make more sense.

·It is possible for compliance with a harmonized set of regulatory standards to be administered by different regulatory bodies.

·Ontario is committed to the idea of industry-based regulation if it meets articulated consumer protection goals and is efficient.

·A regulatory system must provide the least restrictive and least expensive regulatory alternative necessary to achieve articulated consumer protection goals.

·Consumers are entitled to the same protection regardless of the method used to purchase a product. A regulatory system must be neutral in that it must not impose restrictions on the use of any method of distribution that are not justified in terms of meeting a consumer protection goal.

·The ability of intermediaries to enhance their

occupational and professional development by forming associations, through which they can acquire professional designations or accreditations and achieve higher professional and ethical standards, is independent of any regulatory regime.

CONCERNS:

·The distribution of insurance is generally regulated by licensing intermediaries. This has resulted in a regulatory focus on the individuals who sell insurance rather than the activity of selling.

·The insurance distribution regulatory system, focused on intermediary licensing, fails to address issues related to the direct distribution of products by insurance companies or the distribution of group products by group policyholders.

·The regulatory system focused on licensing of persons who solicit individual insurance contacts casts the net too broadly in some cases (prospecting activities, sales support activities, expert referral activities) and too narrowly in other cases (providing information and advice to consumers who pay to enrol under group contracts of insurance).

·Requirements that insurance salespersons work on a full-time basis selling insurance are unduly restrictive. There are less restrictive measures available to assure salesperson competency.

·Occupational restrictions on individuals who can be appointed to act as insurance salespersons restrict competition. There are less restrictive measures available to assure salesperson competency and to assure that consumers are not subject to the use of undue influence.

·Restrictions on ownership of corporations that can be appointed to act as insurance intermediaries limit investment in distribution companies. There are less restrictive measures available to assure competency

of persons acting as intermediaries for corporations and to assure that consumers are not subject to the use of undue influence.

·There is no flexibility provided in insurance regulation to exempt certain persons from general qualifying examinations and then grant them licences restricted to sell particular products.

·There are no clear, enforceable rules governing the sale of insurance that assure that consumers

- have sufficient information when they buy insurance to enable them to make informed purchasing decisions,

- know who they are buying insurance from (contracting company),

- know who is accountable for the seller's actions in the sales transaction, and

- have personal information protected.

·There is no effective system of day-to-day supervision of life insurance intermediaries who work independently of life insurance companies.

·In some circumstances, there is no clear line of accountability for consumer losses resulting from prohibited, misleading, or dishonest practices or insufficient point of sale disclosure in the distribution of insurance.

·Independent intermediaries may have limited financial resources, and may not be able to indemnify consumers for losses arising due to breaches of sales conduct rules. Errors and omissions insurance may be inadequate to provide compensation to consumers, particularly in the life insurance sector where a loss may not be identified until a long time after a sales transaction has been completed when an intermediary may no longer be in business.

·There is no way for consumers to get redress for losses arising out of the sales transaction quickly and inexpensively.

·There is a need to review and change the system of regulation of insurance adjusters to align it with clearly articulated consumer protection goals.

·Establishing regulatory requirements in statutes or regulations does not provide the opportunity for a regulator to respond quickly to a rapidly changing marketplace. While systems of regulation require the authority of law, and delegated authority must be exercised with due process, the regulator must have the ability to respond to marketplace changes as needed to either eliminate rules that are no longer relevant or create new ones.

·The majority of salespersons hold more than one kind of financial services licence that are issued by different regulators.

- Multiple regulatory structures do not reflect the way business is being done, increasing the risk that, without coordination, regulation will not be effective, matters will fall between the jurisdiction of regulators, and that the limited focus of each regulator will prevent a broad understanding of the marketplace.

- Multiple uncoordinated regulatory systems may be costly, administratively inefficient from the perspective of those being regulated, and confusing to the consumer who wishes to make a complaint about the conduct of a financial product sales transaction.

- There is no way for consumers to know whether the sale of a particular financial product or the offering of advice about the product is a regulated activity, who the regulator is, and whether the individual they are dealing with is appropriately licensed or registered.

- Having uncoordinated regulatory systems increases the risk that a salesperson whose licence is revoked by one regulator will continue in the business using a

licence issued by another regulator.

- The knowledge base required to give information to consumers about income and wealth protection is expanding. Products with similar, but not necessarily identical features are sold under different names by different kinds of financial institutions (e.g. mutual funds and variable insurance contracts based on segregated funds). Multiple licensing systems for the sale of financial products gives rise to concerns about different qualification standards and continuing education requirements being applicable to the sale of similar products.

- Qualification standards for life insurance salespersons need to be reassessed in relation to standards for other financial product sales persons and the requirements of the current marketplace.

- Multiple regulatory systems for the sale of financial products gives rise to concerns about lack of harmonization of rules governing distribution and sources of compensation for salesperson misconduct.

- It is difficult for multiple regulators to deal with national harmonization issues in a coordinated way.

PROPOSED DIRECTION:

It is suggested the regulatory model set out below could achieve articulated consumer protection goals and satisfy identified concerns in accordance with the guiding principles.

1. INSURANCE DISTRIBUTION REGULATORY BOARD

·A private self-funded not-for-profit corporation, to be known as the Insurance Distribution Regulatory Board ("IDRB") would be established in legislation. The IDRB would be accountable to the Minister of Finance who would appoint its Board of Directors. The organization would be responsible for

- making rules (subject to approval by the Minister of

Finance) that would govern the distribution of all classes of insurance by insurance companies and intermediaries,
- administering and enforcing the rules governing the distribution of insurance, and
- making, administering and enforcing rules governing insurance adjusters.

Making Rules Governing Insurance Distribution

·The IDRB would make rules that would have the force of regulations governing the distribution of insurance of all classes of insurance by insurance companies and intermediaries , which would include rules with respect to

- eligibility requirements for a licence and requirements for the renewal, expiry, suspension, cancellation or reinstatement of a licence for distribution of all classes of insurance,
- requirements of licensees, insurance companies, or registrants, including requirements with respect to continuing education, supervision, errors and omissions insurance, payment into a compensation plan and maintenance of trust funds,
- the creation of categories or sub-categories of licensees, insurance companies or registrants and requirements with respect to licensing or conditions related to categories or sub-categories of insurance products,
- rules of conduct governing the distribution of insurance including unfair distribution practices, disclosure requirements on point of sale or replacement, use of undue influence, conflict of interest, and protection of confidentiality of information,
- requirements of and conditions imposed on the directors and officers of a licensee,
- requirements with respect to the reporting of information to the IDRB, and
- payment of fees to the IDRB.

·The IDRB would not have authority to make rules prescribing who or what is regulated.

·Upon establishment of the IDRB, the existing rules governing the matters noted above, which are contained in the *Insurance Act* and regulations governing insurance agents and insurance companies, and the *Registered Insurance Brokers Act* and regulations governing general insurance brokers, will become IDRB rules.

·To make or change a rule the IDRB would have to

- publish effective notice of every rule it proposes to make or change,
- invite interested persons to make written representations with respect to the proposed rule,
- give notice to the Minister of Finance of the proposed rule and after the consultation period and the receipt of written submissions provide a statement to the Minister summarizing the written comments received and a statement responding to issues of concerns brought to the attention of the IDRB during the consultation period,
- receive approval of the Minister of Finance for the proposed rule, and
- publish the approved rule in *The Ontario Gazette*.

·The Cabinet would retain the authority to make regulations in respect of all matters where the IDRB can make rules and any matter advisable for carrying out the purposes of the Act. Where a rule made by the IDRB conflicted with a regulation made by Cabinet, the rule made by Cabinet would prevail.

·The IDRB would be directed to harmonize rules governing general insurance brokers, insurance agents, and insurance companies, and to introduce new rules

- governing point of sale product disclosure and disclosure of relationships,
- to protect the confidentiality of personal information,
- to replace restrictions on individual eligibility to be licensed or registered with conflict of interest and undue influence rules,

- to replace restrictions on ownership of corporations with conflict of interest and undue influence rules, and
- to set entry and continuing education standards, taking into consideration standards set for the sale of other financial products.

Administration and Enforcement of Rules Governing Insurance Distribution

·The IDRB would administer and enforce rules governing conduct in the distribution of insurance by

- issuing, renewing, suspending or revoking licences,
- receiving and dealing with complaints with respect to conduct in the distribution of insurance,
- disciplining insurance companies and licensees for breach of insurance distribution conduct rules or the failure to meet imposed requirements or conditions, and
- conducting prosecutions under the *Provincial Offences Act* against insurance companies, licensees or registrants for contravention of rules.

·The IDRB could delegate its powers and duties to administer and enforce rules governing insurance distribution. The IDRB would assume the current responsibilities of the Ontario Insurance Commission ("OIC") (Financial Services Commission of Ontario ("FSCO")) with respect to regulation of insurance distribution. The IDRB could seek to enter an agreement with the Registered Insurance Brokers of Ontario ("RIBO") for RIBO to continue to administer and enforce registration requirements and conduct of general insurance brokers.

Insurance Adjusters

·The IDRB would make, administer and enforce rules governing insurance adjusters. The IDRB could enter into an agreement with an organization to administer and enforce rules governing adjusters.

Composition of the IDRB Board

·The Board of the IDRB would be appointed by the Minister of Finance and composed of a minimum of nine persons, one third being members of the public, and two thirds being industry-based persons holding a licence or registration to distribute insurance or act as an insurance adjuster or employed by an insurance company or licensee. No industry associations would be "represented" on the Board.

·Financial services are evolving rapidly, and there are many different constituencies of expertise required to exercise the functions of the IDRB. The governing board must be able to be adapted to ensure its continuing relevancy. Ministerial appointment ensures this adaptability.

·The Minister would publish a set of criteria for the composition of the industry based members of the Board. The criteria would be based upon the need to ensure expertise in different aspects of the business of the distribution of insurance and insurance adjusting and expertise in the broader financial services sector in which the industry does business.

·Nominations for Board membership could be made by any party holding a licence or registration to distribute insurance or act as an insurance adjuster or by any employee of an insurance company or licensee. Nominations would indicate which criteria the nominee filled.

2. REGULATORY CHANGES

·Fundamental changes to the system of regulating distribution of insurance proposed below, will be set out in the legislation. However provisions will not be proclaimed as law until the IDRB has had an opportunity to assure that a smooth transition plan is in place. Licensed insurance agents and general insurance brokers will be given timely notice of changes.

Who Would Be Licensed or Registered to Distribute Insurance

·The regulation of distribution activities would no longer be based solely on licensing or registration of intermediaries. Any individual or corporation engaging in the activity of distributing insurance would be subject to regulation through licensing or registration, regardless of the method of distribution used. The same rules would apply to direct distribution by an insurance company and its employees, and distribution through intermediaries.

·There would be no duplication of licensing for insurance companies licensed under the *Insurance Act* to do business in Ontario.

Distribution Activities Requiring a Licence or Registration

·Distribution activities which currently trigger regulation as an "insurance agent" or "insurance broker" under the *Insurance Act* and the *Registered Insurance Brokers Act* respectively, are soliciting, negotiating or procuring the making of an insurance contract, and transmitting an application for insurance or policy of insurance to an insurer on behalf of a consumer. Engaging in these activities would become triggers for regulation of insurance distribution by any means (i.e. face to face sales, telephone, internet, print material).

·The distribution of insurance would include the sale of individual contracts of insurance and the enrollment of an individual under a contract of group insurance, if the individual had to pay to be enrolled under the contract.

·The following would not be distribution activities:
- interacting with a consumer only to determine whether he or she was interested in purchasing insurance - commonly called "prospecting" or lead generation,

- interacting with a consumer to provide clerical or administrative support for a sale,

- providing brochures and enrollment forms by group policyholders which have been prepared or authorized by an insurance company or licensee,

- making a referral to an individual or corporation licensed or registered to engage in insurance distribution activities,

- promoting or endorsing insurance products, and

- giving of advice about insurance generally, if the advice was not given with an intent to solicit insurance.

·To prevent possible abuses, persons engaged in any of the activities listed above, could not split a commission for the sale of insurance. However, persons holding any licence or registration to distribute insurance or securities would be able to share commission for making a client referral to a person licensed or registered to distribute the insurance product, without holding a licence or registration with respect to the particular class of insurance sold.

Removal of Current Exemptions from Licensing or Registration

·Existing exemptions from regulation for premium collectors who do not "solicit" insurance and exemptions from registration for other professionals giving advice about insurance would be removed. These persons would no longer be engaged in regulated activity and therefore exemption from regulation would be redundant. This effectively would maintain the status quo.

·Exemptions from regulation for head office employees of life insurance companies, and employees or members of fraternal societies would be eliminated to provide consistent consumer protection

regardless of who is acting to distribute insurance. In other words, these persons would be subject to regulation if they engaged in distribution activities.

·The *Registered Insurance Brokers Act* exempts from registration persons registered under the *Travel Industry Act* in respect of travel accident and sickness, baggage or trip cancellation insurance. Regulations under the *Insurance Act* exempt transportation companies selling travel insurance from licensing. The IDRB would be directed to review these exemptions, consult with interested stakeholders, and make recommendations to the Minister concerning the regulation of the distribution of travel insurance.

Elimination of Sole Occupation Rules

·Current rules requiring that insurance intermediaries maintain their sole occupation in insurance, or in the provision of financial services, or that they act on a full time basis, would be eliminated because the regulatory focus would be on the activity of selling, not the person selling.

No "deeming" an intermediary to be acting for an insurance company

·The provision in the *Insurance Act* that states that insurance agents act on behalf of an insurance company would be eliminated. The relationship between a salesperson (e.g. employee, independent agent) and an insurance company would be determined by the terms of any contract between the company and the salesperson.

New Licensing and Registration Rules

·Insurance Companies

An insurance company would continue to be permitted to engage in direct distribution activities for a particular class of insurance (e.g. print brochures, direct mail, Internet) if it is licensed under the *Insurance Act* to undertake that class of business in

Ontario.

·Insurance Representative Licence ("Licensee")

Any individual or corporation would be permitted to engage in distribution activities for a particular class of insurance, if licenced by the IDRB as an insurance representative.

The basic eligibility requirements for licensing would be that an applicant

- had a record in the business of selling insurance or a business plan that demonstrated that the business would be managed and directed by individuals having the experience necessary to supervise and direct the sale of insurance,

- was in a financial position from which it was reasonable to conclude that the licensee could be accountable to the public for any economic losses arising from the licensee's activities,

- had errors and omissions insurance with extended tail coverage and coverage for loss resulting from fraudulent acts, and

- had paid into an indemnity fund that would act as second payor in the event of failure to satisfy a restitution order made against a licensee.

·Insurance Representative Registration ("Registrant")

Any individual would be permitted to engage in distribution activities for a particular class of insurance if he or she is registered as an insurance representative by an insurance company or by a licensed insurance representative.

·Duties and Responsibilities of Insurance Companies and Licensed Insurance Representatives

Insurance companies and licensees would be

required to certify that insurance representatives they register are suitable to act as insurance representatives, and that they have met competency standards set by the IDRB.

Insurance companies and licensees would have to supervise all registrants by establishing and maintaining a system that was reasonably designed to ensure that registrants comply with requirements imposed on insurance representatives and with insurance distribution conduct rules.

Insurance companies and licensees would be required to certify that all insurance representatives registered by them were covered by errors and omissions insurance.

·Consumer Restitution for Breach of Distribution Conduct Rules

Insurance companies would be accountable to consumers for economic losses resulting from their own breaches of insurance distribution conduct rules where they distributed directly without an insurance representative. Insurance companies would also be accountable for economic losses resulting from misconduct by insurance representatives registered by them or by registered insurance representatives from whom they accepted business directly. In a disciplinary proceeding, the IDRB could make a restitution order against an insurance company.

Licensed insurance representatives would be accountable to consumers for economic losses resulting from their own misconduct and for losses resulting from misconduct by registered insurance representatives who submitted business to an insurance company through them. In a disciplinary proceeding, the IDRB could make a restitution order against a licensed insurance representative.

3. ONTARIO COUNCIL OF FINANCIAL REGULATORS

·A body to be known as the Ontario Council of Financial Regulators ("Council") would be established in legislation. The Council would be accountable to the Minister of Finance and make an Annual Statement of Priorities and Report to the Minister. It would be composed of the Chief Executive Officers of FSCO, the Ontario Securities Commission ("OSC"), and the IDRB. Its activities would be supported by the staff of the member regulatory bodies.

·The Council would have a mandate to enhance the quality and efficiency of the regulation of financial services in Ontario by

- identifying ways to coordinate activities, reduce duplication and avoid unintended gaps or conflicts in the regulatory net,

- making recommendations to their constituent bodies on effecting complementary regulatory initiatives,

- coordinating activities with their counterpart financial services regulators in other jurisdictions within and outside Canada.

·It is contemplated that coordinating activities would include:

- in the short term, developing the regulatory system's ability to provide for "one window" access by licensees or registrants and consumers wherever possible, and in the longer term working towards the issuance of a single Financial Services Distribution licence with appropriate separate endorsements,

- developing a common public data base for all persons holding a licence or registration issued by any member of the Council and any regulatory proceedings taken involving them,

- coordinating administrative processes among regulators by developing systems to facilitate sharing information about licensees, joint investigations, sharing of expertise, a common system of

communication to licensees or registrants and the public, a common system for the processing of licences or registrations and the use of common forms (e.g. applications, certifications, notices, etc.) applicable to all registrants and licensees,

- reviewing the regulatory structure applicable to the distribution of financial services in Ontario from the perspective of licensees or registrants and the public to identify conflicting or overlapping standards and requirements and providing a forum to work to resolve conflicts.

Ontario Insurance Commission
(Financial Services Commission of Ontario)
June 1998

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DISCUSSION PAPER ON REGULATION OF INSURANCE DISTRIBUTION AND COORDINATION OF FINANCIAL SERVICES REGULATION

I BACKGROUND

There have been two major changes in the past 20 years in the way Ontario regulates the distribution of insurance.

Establishment of the Registered Insurance Brokers of Ontario

The first was the establishment of the Registered Insurance Brokers of Ontario ("RIBO") in 1981 to transfer from the Superintendent of Insurance the responsibility to regulate general insurance brokers. RIBO is a self-supporting corporation whose powers and duties are set out in the *Registered Insurance Brokers Act*. RIBO regulates brokers in accordance with the provisions of the statute and the regulations. It administers and enforces the law with respect to the licensing, professional competence, ethical conduct, and insurance related financial obligations of general insurance brokers.

RIBO does not regulate intermediaries who sell general insurance as an agent for a single insurance company. That responsibility has remained with the Superintendent of Insurance who continues to administer and enforce the provisions of the *Insurance Act* with respect to all insurance agents.

An insurance broker is not an intermediary who, by definition in the *Registered Insurance Brokers Act*, acts on behalf of an insurer. At different times in an insurance transaction, a broker may act for a consumer or for an insurance company. Insurance agents continue to be defined in the *Insurance Act* as persons who act on behalf of a single insurer. The introduction of the *Registered Insurance Brokers Act* created a regulatory split between brokers who contracted with a number of general insurance companies to sell general insurance and agents who acted on behalf of a single general insurance company.

All insurance agents had to maintain an appointment with an insurance company to hold a licence as an insurance agent. This system is often referred to as "sponsorship." An agent was licensed to sell for one company only and if a company terminated an agent's appointment or sponsorship, the licence was suspended. An agent was not permitted to engage in any business other than being an insurance agent. Agents were required to work full time in the insurance business.

Changes to regulation of life insurance agents

In the life insurance business, traditionally, products were distributed only through a company's own sales force. Agents were recruited, trained, and controlled by a life insurance company. However, a new method of distribution of life insurance products emerged. Some companies, rather than maintaining an exclusive agent sales force, "contracted out" to independent agents. A company could issue a "single case release" to an agent to sell the product of another company. Some companies sponsored agents but routinely gave them releases to sell other company products. The single case release became the legal loophole through which a different distribution system emerged. Life insurance agents "sponsored" by one company sold the products of a variety of companies, calling themselves "life insurance brokers."

In the early 1990s, there were other market changes. Federal financial institution legislative reform allowed federally regulated financial institutions to acquire subsidiaries. Institutions began to explore strategic alliances and a mix of distribution systems for the growing ranges of products and

services in the financial services market. The limitation on the use of life insurance agents to sell other products and services, because they had to maintain their sole occupation as a life insurance seller, was increasingly seen to be a problem.

In 1995, the second major change in Ontario's system of regulation of insurance intermediaries was introduced to take into account these marketplace changes and pressures. These changes were restricted to agents licensed to sell life insurance.

Amendments to the *Insurance Act* and regulations allowed life insurance agents to sell products of more than one company, without having to get a single case release from any company. Most importantly, after two years of being licensed and successful completion of a more difficult examination, life insurance agents were allowed to hold their licences independently, regardless of continuing appointment or sponsorship by a particular company.

The rule requiring agents to just be in the life insurance business was also changed. Agents were allowed to work on a part-time basis and hold other licences to sell financial products. Probably more significantly, other financial services licensees, like stockbrokers, could get a life insurance licence.

These changes in the rules followed the changes that had taken place in the marketplace with the continuing breakdown of the financial services pillars. Doing business through independent agents was simply legitimized in law. Having employees of a financial services group multi-licensed and able to work together was also legitimized in law.

These changes resulted in a lot of new intermediaries, like stockbrokers, and new institutional players, like bank-owned insurance companies. There was also new flexibility for companies to choose how to distribute products. Companies could place themselves somewhere on a continuum of being a manufacturer of insurance products only, at the one end, and being a distributor of a full range of financial products at the other end.

Although there was a new flexibility provided to distribute insurance in different ways, the basic method of regulating distribution did not change. Life insurance distribution is still regulated by issuing licences to agents who, by definition in the *Insurance Act,* are persons who act on behalf of an insurance company.

The 1995 amendments to the *Insurance Act* did lay the framework for the transfer of regulation to a single life insurance council. Rather than adopting the split in the general insurance field between agents and brokers, a single regulator was to assume responsibilities for both life insurance agents and brokers.

In 1997, the Commissioner of Insurance turned down a proposal to form a Council to take over the Superintendent's responsibilities with respect to life insurance agents. She noted that there was not a consensus of support for the structure of the Council across the industry and she did not believe that the Council could operate in the public interest without such support.

The Commissioner was also concerned that the Council would not be in a position to regulate effectively. During a consultation on the proposal, she heard a lot about how the industry had changed since the idea of a Council was first raised over ten years ago. She shared the concerns expressed by many industry people that the Council would be a new regulatory solitude.

Essentially, the idea of a Council was to get the administration of the regulation of life insurance agents out of government. The policy of getting regulation out of government and to an industry-based regulator was not new. In the case of the life insurance industry, the idea was discussed across the country in the mid - 80's. Ontario supported and continues to support the idea of industry-based regulation if it is efficient and meets consumer protection goals. However, by the time the Council's proposal came to Ontario, the industry and marketplace had radically changed. Simply passing the Superintendent's responsibilities to an industry-based regulator wasn't going to work without having a look at the way the industry had changed and how the system of regulating

needed to change as well.

II CONSUMER PROTECTION GOALS

A distinction must be made between regulation of distribution and regulation of a product. There are many rules that govern the insurance contract and its formation, just as there are rules governing other financial products like mutual funds and securities.

Parts III to IX of the *Insurance Act* contain provisions applicable to various types of insurance contracts. For example, Part V of the Act deals with life insurance and contains provisions governing the issuance of a policy and its contents, the formation of a contract, the designation of beneficiaries, dealings with the contract during the lifetime of an insured, minors, and proceedings under the contract.

These provisions do not address distribution of insurance. Matters related to distribution are generally found at Part XIV of the *Insurance Act,* entitled Agents, Brokers, and Adjusters, in Part XVIII of the *Insurance Act* entitled Unfair and Deceptive Acts and Practices in the Business of Insurance, in Ontario Regulations 663 and 674, and in Ontario Regulation 991 under the *Registered Insurance Brokers Act.*

By distribution we mean the sale of insurance. A "sale" can take place when a product is first purchased, when it is renewed, when it is replaced, or when there is a material change to a contract.

The sale of most products is not regulated because there is no serious harm to society that would flow from the decision to purchase the product. However, the decision to purchase insurance affects individual and societal wealth. There is a public interest in regulating insurance distribution to assure that when it is purchased consumers

- do not suffer financial losses resulting from misleading or dishonest sales practices,

- have sufficient information to enable them to make informed purchasing decisions,
- know what they bought and who they are contracting

with,
- know who is accountable for the seller's actions in a sales transaction,
- know how to seek redress for problems arising out of a sales transaction, and
- can get redress for losses arising out of sales misconduct quickly and inexpensively.

The purpose of regulating the distribution of any financial product is to assure that these consumer protections are in place.

III GUIDING PRINCIPLES

1. The law and regulatory systems governing distribution of financial products should be harmonized and coordinated, to the extent possible, both within Ontario and across Canada. Also, harmonization with international developments and initiatives should be achieved as appropriate.

Much has been written recently about financial product convergence. Different financial institutions sell similar but not necessarily identical products. Each financial institution sells its products using its traditional distribution channels under the regulatory schemes that apply to the institution. In general terms, consumer protection standards should not unjustifiably vary depending upon the type of financial product purchased or where it is purchased. Consequently, harmonization of standards and coordination of regulation of financial services delivery must guide the development of any changes to regulatory systems.

This principle must be applied with some flexibility because, in some instances, laws or regulatory systems will benefit from national harmonization, and in other instances, provincial harmonization will make more sense. In any case, both domestic and international structures must be examined to determine the most effective system of regulation for Ontario financial services.

2. It is possible for compliance with a harmonized set of regulatory standards to be administered by different regulatory bodies.

Groups of practitioners involved in the provision of financial services may wish to continue to be governed separately to preserve historic divisions. Such regulatory divisions can be maintained with minimal risk of duplication or regulatory arbitrage if the different regulatory bodies agree on a common, coordinated regulatory approach and introduce and enforce similar sets of regulatory standards.

3. Industry-based self regulation must be efficient and meet articulated consumer protection goals.

Ontario remains committed to the idea of industry-based self regulation if the regulation can be provided in a way that is efficient and in the public interest.

4. A regulatory system must provide the least restrictive and least expensive regulatory alternative necessary to achieve articulated consumer protection goals.

When a consumer protection goal has been articulated, there will be various options available to achieve that goal. However, the best option will always be the one that least restricts the operation of the marketplace, allowing for diversity. Sales intermediaries and companies should be able to develop individual strategies for the sale of products. This ultimately benefits consumers who also have diverse needs with respect to financial products and how they purchase them.

At the same time, the cost of regulatory measures must be considered, because such costs are ultimately borne by the consumer. Where the cost of regulation is borne by those regulated, the cost is passed on by the industry to the consumers of its products.

5. Consumers are entitled to the same protection regardless of the method used to purchase a product. A regulatory system must be neutral in that it must not impose restrictions on the use of any method of

distribution that are not justified in terms of meeting a consumer protection goal.

Companies will have various corporate strategies. Some may choose to develop niche markets, specializing in the production and distribution of particular products to a target market. Other companies may choose to serve the general population by providing a wide array of financial products that can be sold to consumers from " cradle to grave." Some companies may choose one method of distribution; others may distribute products through a variety of different channels. Companies may also choose to get out of the business of distribution entirely, acting as a manufacturer of financial products only.

While the regulatory goals are the same for each channel of distribution, the means of achieving the goals may need to be adapted to the channel. The rules appropriate to one channel may not be appropriate to another. It is important, however, that regulatory measures are applied neutrally, without an intention to favour one method of distribution over another.

6. The ability of intermediaries to enhance their occupational and professional development by forming associations, through which they can acquire professional designations or accreditations and achieve higher professional and ethical standards is independent of any regulatory regime.

Financial services intermediaries can develop mechanisms to provide professional designations or accreditations through professional associations and industry groups. Associations can work, as they do now, to promote high ethical standards and contribute to the professionalism of their members. The regulation of intermediary conduct can be quite independent of such professional development.

IV CONCERNS

1. INSURANCE DISTRIBUTION REGULATION FOCUS ON INTERMEDIARIES INSTEAD OF ON THE SALES TRANSACTION

Ontario's system of regulation of insurance distribution is focused on the issuance of licences to intermediaries. Approximately 23,000 licences are issued to life insurance agents, 4,000 licences to general insurance agents, 500 licences to agents to sell accident and sickness insurance only, and 14,000 registrations to general insurance brokers. When there is a failure to comply with requirements to maintain a licence, such as not completing continuing education credits, or a breach of conduct rules, such as engaging in fraudulent behaviour, the regulatory action available includes prosecution, issuance of a "cease and desist" order, and imposition of the most severe sanction which is to revoke the individual's licence.

The focus on licensing might lead to the conclusion that the system is designed to regulate an occupation or profession. However, as noted above, the purpose of regulation of distribution is to assure that consumers are not cheated when they purchase insurance products, and that they receive sufficient information with which to make an informed purchasing decision. It is questionable whether these purposes can be achieved today by continuing to focus only on the licensing of intermediaries by restricting entry requirements and revoking licences where there is misconduct.

First, a system that focuses only on the regulation of distribution through the licensing of intermediaries ignores the realities of today's marketplace where companies are exploring direct distribution which is becoming more feasible in the general insurance sector, and a channel in some parts of the life insurance sector.

Second, people who are licensed to sell insurance, unless they are product specialists such as group benefit plan sellers, are no longer restricting their occupation to acting as an insurance agent or broker only but hold licences to sell other financial products. This is more evident in the life insurance sector than in the general insurance sector because the purchase of life insurance, annuities, or segregated funds may form part of an overall financial plan for a consumer. To give good service, this intermediary requires an expertise in the broader financial services sector. The

result is that in practice, few licensed life insurance agents hold themselves out as agents. More frequently, they call themselves financial advisors or consultants. Consequently, regulating the occupation or profession of being an insurance agent no longer makes sense. On the other hand, individuals who sell general insurance tend to focus their expertise in general insurance. Although many general insurance brokers are also licensed to sell life insurance,
this combination is usually at the business level and done through referral to provide full service to customers.

Third, regulation of distribution by regulation of agents worked well when agents sold for just one company. The Superintendent of Insurance could deal with patterns of conduct in the marketplace through one company's agent activity rather dealing with individual agent conduct. However, with the sponsorship link between the life insurance company and the agent broken, regulation is focused on the individual agent. This creates obvious administrative inefficiencies, but more importantly, the revocation of a single agent's licence as a method of consumer protection is not an efficient way to regulate the marketplace as a whole, particularly when the requirements to enter the occupation are not onerous and where most agents stay in the business for only a short time.

Finally, given the principle that regulation should be the least restrictive alternative available to meet an articulated consumer protection goal, it is questionable whether regulation of insurance agents and brokers as a profession or occupation is necessary to assure that consumers are protected in a sales transaction. We believe that professional associations are a better vehicle with which to encourage maintenance of high ethical standards among professionals.

2. SALES CONDUCT RULES APPLY TO SALES INVOLVING INTERMEDIARIES RATHER THAN TO ALL TRANSACTIONS REGARDLESS OF DISTRIBUTION CHANNEL USED

Information about financial products or services can be provided to a consumer in a variety of ways by an intermediary, an insurance company, or a group policyholder. If regulation of distribution is focused on the sales intermediary rather than the sales transaction, direct

distribution by the company or distribution by a group policyholder is essentially ignored. However, the consumer is entitled to the same protection when they are purchasing insurance, regardless of the method they use to purchase insurance.

Sales conduct rules can be made to apply to all transactions regardless of distribution channel. Consider for example, point of sale disclosure. Where a conduct rule is provided that in a sales transaction, a consumer must have sufficient information with which to make an informed purchasing decision, the rule can apply to all transactions. For example, sufficient information about a complex product may be provided through the Internet to a sophisticated consumer in a way that enables him or her to make an informed purchasing decision. The same complex product may not be able to be distributed directly through a direct mail channel of distribution and still meet an informed disclosure rule.

3. THE REQUIREMENT THAT ALL PERSONS WHO "SOLICIT INSURANCE CONTRACTS" MUST BE LICENSED, CASTS THE REGULATORY NET TOO BROADLY IN SOME CASES AND TOO NARROWLY IN OTHERS

The *Insurance Act* and the *Registered Insurance Brokers Act* define an "agent" and "insurance broker" respectively. The definitions do not describe all the activities that are undertaken by an insurance intermediary but serve to describe activities that cannot be carried on without a licence or registration. The definitions contain three basic activities: soliciting insurance, transmitting policies of insurance, and negotiating or procuring policies of insurance.

The activity that creates the most difficulty is "soliciting," which can sweep in any approach to a consumer. Our consumer protection goal is to assure that in a sales transaction, consumers receive sufficient information with which to make informed purchasing decisions. We believe, therefore, that there should be some refinement to limit what is being regulated to engaging in those activities that most directly affect consumers.

This would exclude from regulation activities commonly

referred to as prospecting, where a consumer is qualified as a potential purchaser. This activity does not involve soliciting insurance by providing information or advice to consumers about particular products. It would also exclude from regulation the activity of providing sales support without providing information or advice to assist the consumer in making a purchasing decision.

This would also exclude from regulation persons who simply make referrals to insurance salespersons. There is potential harm to a consumer arising from a situation where regulated individuals set up a network marketing scheme whereby unregulated persons are paid per successful referral made. There is a concern that the person making referrals would "push" a sale to receive remuneration. However, this concern is not warranted where a person making a referral to an insurance licensee is regulated to sell another financial product. Such persons are already subject to regulation by another financial services regulator. The information provided to the consumer at point of referral is based upon a determination that the product may be appropriate for the consumer and the consumer gets the expert advice of the insurance licensee to whom they were referred.

For example, a representative of a registered dealer could receive a share of commission from an individual licensed or registered to sell life insurance for making the referral to the life insurance intermediary. Requiring that the dealer representative be licensed as a life insurance representative to receive part of the commission on the sale does not enhance consumer protection.
The concept of soliciting insurance contracts is too narrow in another sense because it applies only to individual contracts. This excludes from regulation persons who enrol consumers under contracts of group insurance, even if the consumer is paying to enrol under the contract and is provided with information and advice to assist in the purchasing decision.

4. NO EXEMPTION FROM QUALIFYING EXAMINATIONS FOR RESTRICTED LICENSEES

In the insurance sector, there is a basic separation of expertise between those who sell general insurance and those who sell life insurance. In both sectors, individuals

sometimes specialize in selling particular products, but any such specialization, such as the sale of annuities only, builds upon a general level of expertise.

However, there may be some types of insurance that could be sold by individuals who are restricted to selling a particular line of product only. For example, it may be a good idea to maintain the status quo by allowing persons who wish to sell only accident and sickness insurance , to write a separate qualifying examination. It may be appropriate to allow persons such as travel agents, funeral directors, lawyers, or those regulated by other bodies, to sell limited types of insurance under a restricted licence or registration.

Insurance legislation currently provides no discretion to exempt a person from general qualifying examinations and grant a restricted registration or licence on appropriate terms or conditions.

5. OCCUPATIONAL RESTRICTIONS ON SALESPERSONS UNDULY RESTRICT COMPETITION

If the activity of distributing insurance is regulated, rather than the occupation of being an insurance intermediary, it is not necessary to restrict particular individuals from undertaking this activity if they demonstrate the appropriate expertise.

Currently all insurance intermediaries are restricted from engaging in other occupations. General insurance brokers must maintain their only business or employment as insurance brokers, although the regulations under the *Registered Insurance Brokers Act* allow for discretionary exemption. General insurance agents who are not also licensed as life insurance agents must maintain their full time employment as general insurance agents. Life insurance agents must engage only in selling financial products until they have been licensed for two years and passed a more difficult qualifying examination.

Individuals who distribute insurance must have sufficient expertise to provide information or advice to consumers. Entry qualifications and continuing education requirements, where appropriate, can meet this consumer protection objective in a less restrictive way than requiring that persons only engage in

the activity of selling insurance or engage in selling insurance on a full time basis.

Certain individuals, engaged in other occupations, are not eligible to be licensed as general insurance agents or life insurance agents because they are deemed to be in a position to use undue influence to control, direct, or secure insurance business. We believe that concerns about conflicts of interest and the use of undue influence can be addressed by imposing transaction specific rules about disclosure of conflicts of interest and use of undue influence.

6. RESTRICTIONS ON INVESTMENT IN A CORPORATE AGENCY UNDULY RESTRICT INVESTMENT IN DISTRIBUTION COMPANIES

The *Insurance Act* and the *Registered Insurance Brokers Act* both put restrictions on investment in corporations that can act as agents or brokers. The consumer protection objective justifying such restrictions is two-fold: that corporate agencies should be directed by individuals who have passed certain entry qualifications, and that corporations should not be vulnerable to the undue influence of shareholders to control, direct, or secure insurance business.

If the focus of regulation is on the sales transaction, these restrictions are not necessary. All individuals who act as salespersons in a sales transaction would be regulated and have passed relevant entry tests. Concerns about corporate conflicts of interest and use of undue influence can be addressed through transaction specific disclosure of conflict and use of undue influence rules.

7. NO CLEAR, ENFORCEABLE SALES CONDUCT RULES

(a) No requirement for point of sale product disclosure related to consumer needs

There are not clear, enforceable rules governing the sale of insurance that assure that at point of sale, consumers have sufficient information to enable them to make informed purchasing decisions.

There is often concern that point of sale disclosure requirements be defined. What facts are "necessary to enable

a consumer to make an informed decision about his or her needs?" What is "full and fair disclosure?" Although defining these terms may appear deceptively simple, any definition thwarts flexibility and exercise of judgment in the individual circumstances applicable to each consumer. Some products are relatively simple and a company disclosure statement will meet such a standard for all consumers regardless of their individual circumstances. These products will probably be the ones that can already be sold directly. For other products, the information that must be provided to each consumer to enable him or her to make an informed purchasing decision will vary depending upon the consumer's individual circumstances. Consequently, a checklist of information will not cover all situations, would create red tape, and would never be effective in replacing the exercise of judgment.

A general rule that required the provision of sufficient information for a consumer to make an informed decision about his or her insurance needs would not make it necessary to have a specific "know your client" rule. Regardless of distribution channel, information would have to provided to a consumer that they could use to assess their needs in relation to the product being offered.

(b) No Requirement For Disclosure of Relationships

There are currently no requirements for point of sale disclosure of who the company is with whom the consumer is contracting, who the individual or corporation is that is selling insurance to them, and who is accountable for the seller's actions in the transaction. Accountability for an intermediary's actions in a sales transaction is discussed below. There are also no requirements for disclosure of any conflicts of interest and relevant relationships.

(c) Prohibited Practices Not Clear and Enforceable

Conduct rules must tie back to consumer protection goals and provide the least restrictive alternative necessary to achieve these goals. Existing rules need to be streamlined to remove rules related to "professional" conduct that are better left to be enforced by industry associations through voluntary codes of ethics.

(d) Protection of Personal Information

There are currently no enforceable rules governing the protection of personal information in the distribution of insurance.

8. INEFFECTIVE SUPERVISION OF AND ACCOUNTABILITY FOR INDEPENDENT LIFE INSURANCE INTERMEDIARY'S CONDUCT IN A SALES TRANSACTION

The *Insurance Act* provides that an insurance agent acts on behalf of an insurer. Before the 1995 amendments, life agents were only permitted to sell the products of one company, and their licences were dependent upon continuing appointment or sponsorship of a single company. These provisions provided a clear line of accountability for the actions of a life insurance agent. The insurance company was liable for breaches of sales conduct rules by its agents.

Today there is not as clear a line of accountability to an insurance company for the conduct of life insurance agents. Where an agent is not sponsored by a company, the only link to the company is the statutory provision that states that an agent acts on behalf of an insurer.

Two concerns arise from the fact that agents can now act for a number of companies without sponsorship.

(a) Supervision

With the sponsorship link between companies and life insurance agents severed, the 1995 amendments imposed a duty on insurance companies to set up supervision systems for all the life agents that sell their products, regardless of whether the agent was under the control of the company. This has come to be known as the "duty of care."

It is not difficult for a company that has its own salesforce to set up a supervision and compliance system. However, where a company receives business from a managing general agent, who serves independent brokers or receives business directly from an independent broker, the company is not in a position to set up effective compliance programs for agents.

Life insurance intermediaries who are independent of

insurance companies work in a variety of situations. Some may be part of a larger organization, like a corporate agency that is a subsidiary of a securities dealer. Others may be associated with agencies that have licences as general insurance brokers. Some life insurance intermediaries may work as sole proprietors. Who on a day to day basis is recruiting, training, and supervising these agents? It is certainly not the insurance company.

(b) Accountability

For supervision to be truly effective, the supervising party must be accountable for the actions of those supervised. The duty of care imposed on life insurance companies is a duty to establish and maintain a system that is reasonably designed to ensure that each agent complies with the *Insurance Act* and the regulations. While failure to set up such a system may expose a company to regulatory penalties, it may not give rise to civil liability for losses resulting from an intermediary's conduct, particularly if the intermediary's activities are not under the control of the company.

In order to fill this gap in accountability, the 1995 amendments imposed a requirement on all life insurance agents that they hold errors and omissions insurance. However, it is questionable whether errors and omissions insurance is adequate to indemnify consumers for losses resulting from the intermediaries breach of sales conduct rules in a life insurance transaction. This is because an act of misconduct may not come to the attention of a consumer for years after the sales transaction. Errors and omissions insurance may not be sufficient protection in situations where the agent is no longer in business or cannot be located, or where errors and omissions policy with extensive tail coverage is not available at reasonable cost. In this instance, the consumer is left to rely upon the tenuous link to the insurance company provided by the statutory provision that the agent acted for the company. The company may not be liable where the agent clearly acted outside the bounds of his or her authority and the consumer is left without an avenue for redress.

Entry standards can be set to assure that all persons selling insurance have a sufficient knowledge basis with which to give information to consumers. Rules of conduct can be

clearly set out governing sales. But there is a hole in a regulatory system that does not provide consumers with redress where they suffer losses if the conduct rules are breached.

Currently, there is no system in place to ensure that consumers know whether the sale of a particular financial product or the offering of advice about the product is a regulated activity, who the regulator is, and whether the individual they are dealing with is appropriately licensed or registered.

Consumers should be able to get redress for losses arising out of the sales transaction, quickly and inexpensively. There is currently no way for a consumer to get such redress other than through the courts.

Matters related to a contract of insurance and the liability of an insurance company to pay a claim under a contract are better resolved by the court or an alternate dispute resolution scheme supporting the courts. However, we believe that a regulator should have the ability to order that restitution for economic losses be made to a consumer, where there is a finding in a disciplinary hearing that there has been a breach of a sales conduct rule. For example, a consumer who purchased a product based on a misrepresentation about the features of a product may suffer quantifiable economic losses as a result of a purchase. A consumer who is misinformed that a particular benefit is provided in a product may suffer a loss. A regulator disciplining a party for breach of sales conduct rules, should be able to order that restitution be made to the consumer.

9. CHANGES NEEDED TO REGULATION OF INSURANCE ADJUSTERS

Insurance adjusters are currently regulated by the Superintendent of Insurance pursuant to the *Insurance Act*. Changes in the system of regulation of insurance distribution provide an opportunity to streamline regulation of adjusters and align it with clearly articulated consumer protection goals.

10. INSUFFICIENT REGULATORY FLEXIBILITY

Regulatory requirements governing insurance distribution are provided in statutes or regulations. This does not provide the opportunity for regulators to respond quickly to a rapidly changing marketplace. While systems of regulation require the authority of law, and delegated authority must be exercised with due process, the regulator must have the ability to respond to marketplace changes as needed to either eliminate rules that are no longer relevant or create new ones. In 1994, the OSC was granted the power to make rules with the force of law. This rule making power gives the OSC the ability to respond more quickly to marketplace changes.

11. LACK OF COORDINATION OF REGULATION

Persons who sell life and health insurance, segregated funds offered by life insurance companies, accident and sickness insurance, general insurance, mutual funds, and other securities are multi-licensed by different regulators. This creates concerns related to administrative efficiencies.

(a) Limited Focus of Each Regulator Prevents Seeing Big Picture

Having multiple uncoordinated regulatory structures does not reflect the way business is being done, increasing the risk that matters will fall between the jurisdiction of regulators. The limited focus of each regulator may hamper any regulator having a broad understanding of the marketplace. We believe that such a broad understanding is a pre-requisite for effective regulation of the distribution of financial services in the public interest.

(b) Administrative Inefficiencies for Those Being Regulated

Multiple uncoordinated regulatory systems can be administratively inefficient from the perspective of those being regulated. At present, to do business as a multi-licensed intermediary means that separate applications must be made to each regulator. Each regulator will have different application procedures, fees, and requirements to maintain and renew a licence. Each regulatory agency has different systems of communication with companies and intermediaries and other interested parties. The intermediary's costs of this

administrative duplication will ultimately be borne through by the consumer. Payment of administrative costs imposed by this duplication may also disproportionately affect the smaller industry participants or those intermediaries who do not have the support of an institutional employer.

(c) Costs

A guiding principle is that a regulatory system must provide the least restrictive least expensive regulatory alternative necessary to achieve articulated consumer protection goals. Clearly multiple uncoordinated systems of regulation for the same individuals is duplicative and expensive.

(d) Confusing to Consumer

Multiple uncoordinated regulatory systems are confusing to the consumer who wishes to make a complaint about the conduct of a financial product sales transaction.

(e) Intermediaries Falling Between Cracks

Uncoordinated regulatory systems increases the risk that an intermediary whose licence is revoked by one regulator will continue in the financial services business using licences issued by other regulators.

12. LACK OF HARMONIZATION OF FINANCIAL PRODUCT DISTRIBUTION RULES

(a) Lack of Harmonization of Qualification Standards and Continuing Education Requirements

The knowledge base that is required to properly inform consumers about income, investment and wealth protection has expanded. Products with similar, but not necessarily identical features, are sold under different names by different kinds of financial institutions and intermediaries (e.g. mutual funds and variable insurance contracts based on segregated funds). Multiple licensing systems for the sale of financial products gives rise to concerns about different qualification or entry standards and continuing education requirements.

There is not a considerable overlap of expertise in the sale of general insurance and other financial products. However, it

would be advantageous if intermediaries selling life and health insurance, segregated funds, mutual funds, and other securities, had a basic knowledge about all of these financial products, in order to be able to give their customers the best service.

Qualification standards for life insurance intermediaries need to be reassessed in relation to standards for other financial services intermediaries and the requirements of the current marketplace.

(b) Lack of Harmonization of Distribution Conduct Rules

Consumer protection rules governing the distribution of financial products are not harmonized. While many are similar, we believe that rules governing holding out, disclosure of relationships, disclosure of accountability, protection of personal information, advertising, use of inducements, etc. generally should be harmonized. Intermediaries should be subject to common distribution conduct rules unless there is a compelling reason for different treatment.

(c) Lack of Harmonization with Respect to Source of Compensation for Intermediary Misconduct

Requirements to maintain fidelity or errors and omissions insurance, make payment into indemnity funds, and maintain minimum capital, are not harmonized. Where an intermediary is multi-licensed or a corporate agency part of a financial services conglomerate, it may not be clear what source of compensation is available to consumers who have suffered losses and different parties may have disputes about liability. The consumer protection regime applicable to a particular product or service should be clear to the consumer.

(d) Lack of Provincial and National Harmonization

In the financial services sector, harmonization of rules and coordination of regulation is of general concern, whether within Ontario, across Canada, or internationally. One approach to harmonization is to have universal (national or international) harmonization of standards for the same product. Another approach is to have provincially harmonized rules for all financial products. There are no easy answers to

regulatory questions in a rapidly changing marketplace. We believe that efforts to coordinate regulation and harmonize requirements may be facilitated by coordination of financial services delivery within the province. However, at present there is no official forum at which such initiatives may be undertaken or discussed.

V PROPOSED DIRECTION

It is suggested the regulatory model set out below could achieve articulated consumer protection goals and satisfy identified concerns in accordance with the guiding principles.

1. ESTABLISH AN INSURANCE DISTRIBUTION REGULATORY BOARD

A private self-funded not-for-profit corporation, to be known as the Insurance Distribution Regulatory Board ("IDRB"), would be established in legislation. The IDRB would be accountable to the Minister of Finance who would appoint its Board of Directors. The organization would be responsible for:

- making rules that would govern the distribution of all classes of insurance by insurance companies and intermediaries
- administering and enforcing the rules governing the distribution of insurance
- making, administering and enforcing rules governing insurance adjusters

(a) Making Rules Governing Insurance Distribution

The IDRB would have responsibility to make rules that would have the force of regulations governing the distribution of insurance of all classes of insurance by insurance companies and intermediaries.

The distribution of insurance is essentially the sale of products which can occur when a product is initially purchased, or when a policy is renewed or replaced. Insurance could also be "distributed" when there is a material change to a contract.

Distribution may involve salespersons or may be done directly using print advertising, direct mail, Internet, or other methods. The scope of IDRB authority would cover distribution in any form since consumers are entitled to the same protection regardless of the distribution channel they use to purchase a product. Accordingly, the IDRB would not be in the business of regulating an occupation or a profession. It would be in the business of regulating the distribution of insurance by any means.

Rule Making Power

The statute enabling the IDRB would give the IDRB the authority to make rules on the following matters:

·requirements with respect to applications for a licence and the renewal, expiry, suspension, cancellation or reinstatement eligibility requirements for licences for the distribution of all classes of insurance.

·requirements or conditions imposed on licensees, insurance companies or registrants, including requirements with respect to continuing education, duties of supervision, errors and omissions insurance, payment into a compensation fund and maintenance of trust funds

·the creation of categories or sub-categories of licensees, insurance companies or registrants and requirements with respect to licensing and conditions related to categories or sub-categories of insurance products (e.g. licensing or registration requirements for the categories of life and health insurance, general insurance, or, for the sub-categories of accident and sickness insurance, travel insurance or group insurance)

·rules of conduct governing the distribution of insurance, including unfair distribution practices, disclosure requirements on point of sale or replacement, use of undue influence, conflict of interest, and protection of confidentiality of information

·requirements of and conditions imposed on the directors and officers of a licensee

·requirements with respect to the reporting of information to the IDRB

·fees payable to the IDRB.

It should be noted that this list does not include the ability to make rules prescribing who or what is regulated. The statute will set out the requirement to hold a licence or registration and any exemption to the statutory requirement or restrictions on who may be licensed or registered will be provided only in regulations made by Cabinet.

Checks on Rule Making

A process for the IDRB to change a rule or introduce a new rule would be prescribed in the statute. The process would be modelled on provisions contained in the *Securities Act* governing rule making by the OSC. The IDRB would have to:

·publish effective notice of every rule it proposes to make or change, setting out the rule, its purpose, an analysis of the issue giving rise to the proposed rule, and an analysis of the costs and benefits of the proposed rule

·invite interested persons to make written representations with respect to the proposed rule and provide a reasonable opportunity for representations to be made

·give notice to the Minister of Finance of the proposed rule and, after the consultation period and the receipt of written submissions, provide a statement to the Minister summarizing the written comments received and a statement responding to issues of concerns brought to the attention of the IDRB during the consultation period

·receive approval of the Minister of Finance for the

proposed rule

·publish the approved rule in *The Ontario Gazette*.

The statute would also set out a system to deal with non-substantive rule changes and circumstances where changes could be made on an "emergency" basis to protect the public.

The Cabinet would retain the authority to make regulations in respect of all matters where the IDRB can make rules and any matter advisable for carrying out the purposes of the Act. Where a rule made by the IDRB conflicted with a regulation made by Cabinet, the regulation made by Cabinet would prevail.

Implementation

Upon establishment of the IDRB, provisions contained in the *Insurance Act* and regulations with respect to requirements imposed on and conduct rules applicable to distribution of insurance by insurance agents and insurance companies, will become rules of the IDRB applicable to insurance agents and insurance companies. Similarly, provisions contained in the *Registered Insurance Brokers Act* and regulations with respect to requirements imposed on and rules applicable to general insurance brokers will become rules of the IDRB applicable to general insurance brokers. In this way, the *status quo* will be maintained until the IDRB makes changes to the rules in accordance with the rule making process set out in the statute. The harmonization of these rules should be one of the first priorities of the IDRB.

A list of distribution conduct rules that the IDRB should develop is set out at Appendix 1. For example, it should introduce rules governing point of sale disclosure. New rules made must be subject to public consultation and discussion and be approved by the Minister.

Fundamental changes to the system of regulating distribution of insurance proposed below, will be set out in the legislation. However provisions will not be proclaimed as law until the IDRB has had an opportunity to assure that a smooth

transition plan is in place. Licensed insurance agents and general insurance brokers will be given timely notice of changes.

(b) Administration and Enforcement of Rules Governing Insurance Distribution

The IDRB would have the responsibility to administer and enforce rules governing conduct in the distribution of insurance. The statute would authorize the IDRB to:

- issue, renew, suspend or revoke licences
- receive and deal with complaints with respect to conduct in the distribution of insurance
- discipline insurance companies or licensees for breach of insurance distribution conduct rules or the failure to meet imposed requirements or conditions
- conduct prosecutions under the *Provincial Offences Act* against insurance companies, licensees or registrants for contravention of rules.

The IDRB's administrative powers would be set out in the statute. It would have essentially the same powers of examination and investigation and decision as currently provided to the Superintendent of Insurance under the *Insurance Act* and the Manager under the *Registered Insurance Brokers Act.*

It would have the same authority with respect to licensing and discipline as is currently provided to the Superintendent of Insurance and the Qualification and Registration Committee and Discipline Committee established under the *Registered Insurance Brokers Act.* The regulations made under the statute would set out the decision making process to be followed in respect of the issuance or revocation of licences and the discipline of licensees. The regulations would provide for the opportunity to have a hearing before a three-person panel appointed by the Board from a roster of persons having no conflict of interest in a proceeding.

The powers of a hearing panel to make orders would be set out in the regulations and would include the power to issue fines and make orders requiring an insurance company or licensee to compensate a consumer for economic losses resulting from a breach of insurance distribution conduct rules.

There would be a right to appeal the decision of a hearing panel to the IDRB Board and thereafter, a right of appeal to the Divisional Court.

Delegation of Administration and Enforcement Responsibilities

The statute would authorize the IDRB to delegate its powers and duties to administer and enforce rules governing insurance distribution to any organization with which it had entered an agreement, subject to any limitation or condition set out in the delegation.

The IDRB would assume the current responsibilities of the OIC with respect to regulation of insurance distribution. RIBO currently administers and enforces the *Registered Insurance Brokers Act*. The provisions of the *Registered Insurance Brokers Act* governing distribution of general insurance by general insurance brokers will be IDRB rules. It is contemplated that the IDRB would seek to enter an agreement with RIBO for the corporation to continue to administer and enforce the rules governing general insurance brokers. In this way, RIBO's role could continue. As noted previously, the existing rules under the *Insurance Act* and the *Registered Insurance Brokers Act* will be harmonized as one of the IDRB's priorities.

(c) Insurance Adjusters

The IDRB would also have the responsibility to make, administer and enforce rules governing insurance adjusters. It is appreciated that insurance adjusters are not involved in the distribution of insurance. However, resting this responsibility with the IDRB is the best fit possible.

The IDRB could enter into an agreement with an organization to administer and enforce rules governing adjusters.

(d) Composition of the IDRB Board and Accountability to the Minister of Finance

The governing board of the IDRB would be appointed by the Minister of Finance and composed of a minimum of nine persons, one third being members of the public , and two-thirds being industry-based persons holding a licence or registration to distribute insurance or act as an insurance adjuster or employed by an insurance company or licensee. No industry association would be "represented" on the Board.

Financial services are evolving rapidly, and there are many different constituencies of expertise required to exercise the functions of the IDRB. The governing board must be able to be adapted to ensure its continuing relevancy. Ministerial appointment ensures this adaptability.

The Minister would publish the criteria for the overall composition of the industry-based members of the Board. The criteria would be based upon the need to ensure expertise in different aspects of the business of the distribution of insurance and insurance adjusters as well as expertise in the broader financial services sector in which the industry does business.

Terms of appointment to the Board would be for three years with one third of the Board retiring every year. To fill a vacancy on the Board, the Minister would provide effective notice to the industry and publish the criteria for members sought to fill the vacancy such that at any point in time the Board consists of persons who met the overall criteria for composition published by the Minister.

Nominations for industry-based Board members could be made by any party holding a licence or registration to distribute insurance or by any employee of an insurance company or licensee, or by a licensed insurance adjuster. Nominations would indicate which criteria the nominee filled.

The IDRB would be accountable to the Minister of Finance and required to make an Annual Report on its activities and affairs to him or her.

2. CHANGES TO THE SYSTEM OF REGULATION OF

INSURANCE DISTRIBUTION

The statute enabling the IDRB will set out changes to the system of regulation of insurance distribution. The changes will come into force when the IDRB has developed a transition plan that provides for supporting processes and notice to licensed insurance agents and general insurance brokers.

(a) Who Would Be Licensed or Registered to Distribute Insurance

The regulation of distribution activities would no longer be based solely on licensing or registration of intermediaries. Any individual or corporation engaging in the distribution of insurance would be subject to regulation through licensing or registration, regardless of the method of distribution used.

An insurance company can distribute insurance directly through direct mail, print brochures, use of the Internet or other means. Rules governing distribution of insurance would apply to the direct distribution activities of an insurance company. To avoid duplication of licensing by the IDRB, insurance companies licensed under the *Insurance Act* to do business in Ontario, would not require an additional licence. This would mean that the distribution activities of all licensed insurance companies would be subject to regulation by the IDRB.

(b) Distribution Activities Requiring a Licence or Registration

Distribution activities which currently trigger regulation as an "insurance agent" or "insurance broker" under the *Insurance Act* and the *Registered Insurance Brokers Act* respectively, are:

- soliciting the making of an insurance contract - trying to sell insurance,
- negotiating or procuring the making of an insurance contract, or
- transmitting an application for insurance or a policy of insurance to an insurer on behalf of a consumer.

Engaging in these activities would become triggers for regulation of insurance distribution by any means (e.g. face to face sales, telephone, internet, print material).

The distribution of insurance contracts would include the sale of individual contracts of insurance and the enrollment of an individual under a contract of group insurance, if the individual had to pay to be enrolled under the contract. A consumer purchasing an insurance product does not make a distinction between entering into an individual contract of insurance or becoming insured under a group contract. Consequently, the "making of an insurance contract" would include enrolling under a group contract for which a consumer had to pay.

In a group sales situation, an insurance company may produce a brochure and an enrollment form and provide it to a group policyholder, who then provides the material to consumers by making it available at their place of business. In this case, the insurance company's activity of producing the brochure and enrollment form would be subject to regulation. A group policyholder may "resell" the insurance product by producing its own brochure and enrollment form without the authorization of the insurance company. In this case, the group policyholder's activity of producing the brochure and enrollment form would require a licence.

The following would *not* be distribution activities:

- Interacting with a consumer only to determine whether he or she was interested in purchasing insurance, commonly called "prospecting" or lead generation, would not be insurance distribution. The interaction could take place in a face-to-face situation, by telephone, or by asking for a response to a questionnaire. There is no solicitation of insurance when consumers are asked whether they are interested in purchasing insurance.
- Providing clerical or administrative support for a sale would not be distribution. For example, handing a consumer an application form or enrollment form would not be soliciting insurance. The individual is not soliciting a sale and explaining the benefits and features of an insurance product. Similarly, a clerk

simply receiving a printed application form or enrollment form would not be distributing insurance. The activity does not involve interacting with the consumer to complete the application or enrollment.

·Referring a consumer to an insurance company or to an intermediary would not be distributing insurance. For example, a lawyer or an accountant may refer a client to an insurance intermediary without soliciting the sale of insurance.

·Promotional or endorsement activities would not be a distribution activity. An organization could endorse a particular insurance company, product, or person engaged in the distribution of insurance.

·Giving advice about insurance generally would not be a distribution activity, provided that the advice was not given to solicit the sale of insurance. For example, an accountant, lawyer, financial planner, or other consultant may review an individual's financial circumstances and give advice generally about insurance. Provided that the advice was not given for the purpose of selling insurance, the activity would not be solicitation.

To prevent possible abuses, persons engaged in any of the activities listed above, could not split a commission for the sale of insurance. For example, an individual or corporation could be paid to engage in lead generation activities but the compensation could not be made contingent on sales generated from the leads. Similarly, an organization could be paid for promotional or endorsement activities but compensation could not be based on customers who purchased insurance. No compensation or "finder's fee" could be paid for referral of an individual who purchased insurance.

However, persons holding any licence or registration to distribute insurance or securities would be able to share commission for making a client referral to a person licensed or registered to distribute the insurance product, without holding a licence or registration with respect to the particular class of insurance sold.

For example, a person licensed or registered to distribute general insurance could share a commission on the sale of a life insurance product made by a person who had the required life insurance licence or registration. This will permit specialization within offices and encourage licensees and registrants to refer cases to people with greater expertise where this would be appropriate.

(c) Removal of Current Exemptions

Existing exemptions from regulation for premium collectors who do not "solicit" insurance and exemptions from registration for other professionals giving advice about insurance would be removed. These persons would no longer be engaged in regulated activity and therefore exemption from regulation would be redundant. This effectively would maintain the *status quo.*

Exemptions from regulation for head office employees of life insurance companies, and employees or members of fraternal societies would be eliminated to provide consistent consumer protection regardless of who is acting to distribute insurance.

The *Registered Insurance Brokers Act* exempts from registration, persons registered under the *Travel Industry Act* in respect of travel accident and sickness, baggage or trip cancellation insurance. Regulations under the *Insurance Act* exempt transportation companies selling travel insurance from licensing. The IDRB would be directed to review these exemptions, consult with interested stakeholders, and make recommendations to the Minister concerning the distribution of travel insurance.

(d) Elimination of Sole Occupation Rules

The focus of regulation of insurance distribution would shift from the regulation of an occupation to the regulation of an activity. Consequently, rules requiring that individuals maintain their sole occupation in the distribution of insurance, or in the provision of financial services, or that they act on a full time basis, would be eliminated.

(e) No "deeming" acting for an insurance company

The provision in the *Insurance Act* that states that an insurance agent acts on behalf of an insurance company would be eliminated. The relationship between a salesperson (e.g. employee, independent agent) and an insurance company would be determined by the terms of any contract between the company and the salesperson.

(f) New Licensing and Registration Rules

Insurance Companies

An insurance company would continue to be permitted to engage in direct distribution activities for a particular class of insurance (e.g. print brochures, direct mail, Internet) if it was **licensed** under the *Insurance Act* to undertake that class of business in Ontario.

Insurance Representative Licence ("Licensee")

Any individual, partnership, or corporation would be permitted to engage in distribution activities for a particular class of insurance if **licensed** by the IDRB as an insurance representative.

There would be basic eligibility requirements for licensing:

·An applicant would need a record in business or a business plan that demonstrated ability to supervise and direct the sale of insurance.

An applicant may have his, her, or its own record in the business of selling insurance, from which it could be concluded that the applicant could supervise the conduct of the business. A corporate applicant, having no direct experience in the business of selling insurance, could have a business plan that demonstrated that it would be managed and directed by individuals having experience in the business of distributing insurance.

·An applicant would have to be in a financial position from which it was reasonable to conclude that the licensee could be accountable to the public for any economic losses arising from the licensee's activities.

·Potential liabilities would have to be insured through errors and omissions insurance with extended tail coverage and extended coverage for loss resulting from fraudulent acts.

· All licensees would be required to pay into an indemnity fund that would act as second payor in the event of failure to satisfy a restitution order made against a licensee. The IDRB will determine the appropriate quantum of payment into an indemnity fund for different categories of licensees. For example, RIBO has set up a Professional Indemnification Fund of $630,000. The fund acts as a safety net where errors and omissions insurance or fidelity bonds fail to compensate consumers.

Typically, licensees will be corporations. Sole proprietors may become licensees rather than being registered by an insurance company or a licensee if they have established a viable business (i.e. a business that can be expected to continue for many years). The IDRB will set out guidelines for financial eligibility, balancing the need to have eligibility criteria high enough to assure that sound business people do not bear losses through the indemnity fund for imprudent businesses, and low enough so as not to exclude financially responsible small businesses.

Insurance Representative Registration ("Registrant")

Any individual would be permitted to engage in distribution activities for a particular class of insurance if he or she were **registered** as an insurance representative by an insurance company or by a licensed insurance representative.

Duties and Responsibilities of Insurance Companies and Licensed Insurance Representatives

·Insurance companies and licensees would be required to certify that insurance representatives they register are suitable to act as insurance representatives, and that they have met competency

standards set by the IDRB.

For example, an insurance company or licensee registering an insurance representative to sell life and health insurance, would have to certify that the registrant was suitable to act as a life and health insurance representative in accordance with suitability criteria established by the IDRB. It would also have to certify that the registrant had met all competency requirements established by the IDRB.

·Insurance companies and licensees would have to supervise all registrants by establishing and maintaining a system that is reasonably designed to ensure that registrants comply with requirements imposed on insurance representatives and with insurance distribution conduct rules.

·Insurance companies and licensees would be required to certify that all insurance representatives registered by them were covered by errors and omissions insurance in a form approved by the IDRB.

Consumer Restitution for Breach of Distribution Conduct Rules

·Insurance companies would be accountable to consumers for economic losses resulting from their own breaches of insurance distribution conduct rules where they distributed directly without an insurance representative. Insurance companies would also be accountable for economic losses resulting from misconduct by insurance representatives registered by them or by registered insurance representatives from whom they accepted business directly. In a disciplinary proceeding, the IDRB could make a restitution order against an insurance company.

·Licensed insurance representatives would be accountable to consumers for economic losses resulting from their own misconduct and for losses resulting from misconduct by registered insurance representatives who submitted business to an

insurance company through them. In a disciplinary proceeding, the IDRB could make a restitution order against a licensed insurance representative.

Typically, business will be submitted by registered insurance representatives to the insurance company or licensee who has registered the representative. Therefore, that company or licensee will be accountable for the registrant's conduct. However, in transactions where business is submitted by a registered insurance representative directly to a company or through a licensee that has not registered the insurance representative, the registering insurance company or licensee would receive notice of any proceedings involving a registrant.

Enforcement

Enforcement activities would be focused on insurance companies and licensees. It is contemplated that the IDRB would audit insurance companies and licensees to review compliance systems. Enforcement penalties would focus on fines and restitution orders. It is not proposed that the IDRB would have power to revoke the licence of an insurance company for failure to establish a reasonable compliance system. However, the IDRB would report to the Superintendent of Insurance (Superintendent of Financial Services upon establishment of FSCO), any proceedings involving insurance companies.

Currently Licensed Agents and Brokers

Insurance agents or brokers would have the choice of being registered as an insurance representative by either an insurance company or licensed insurance representative, or making an application to be licensed as an insurance representative.

There would be no different rights with respect to business activities between a registered or licensed insurance representative, unlike the step licensing system currently in place for life insurance agents (e.g. currently, Level II life insurance agents do not have to maintain their business in the provision of financial services as required of Level I life

agents). A licensed insurance representative would have a responsibility to supervise insurance representatives who it registers and would be accountable in any transaction for its conduct and the conduct of any registered insurance representatives submitting business through it. Consequently, a business decision to become a licensed insurance representative would typically be based on whether the insurance representative wanted to assume this responsibility.

3. ESTABLISH AN ONTARIO COUNCIL OF FINANCIAL REGULATORS

A body to be known as the Ontario Council of Financial Regulators ("Council") would be established in legislation. The Council would be accountable to the Minister of Finance and make an Annual Statement of Priorities and Report to him or her. It would be composed of the Chief Executive Officers of FSCO, the OSC and the IDRB. Its activities would be supported by the staff of the member regulatory bodies.

The Council would have a mandate to enhance the quality and efficiency of the regulation of financial services in Ontario by

- identifying ways to coordinate activities, reduce duplication and avoid unintended gaps or conflicts in the regulatory net,

- making recommendations to their constituent bodies on effecting complementary regulatory initiatives,

- coordinating activities with their counterpart financial services regulators in other jurisdictions within and outside Canada, and

It is contemplated that coordinating activities would include the following:

(i) Developing a Single Access Point to Financial Services Regulators

The constituent agencies of the Council would work together on computer system enhancements to develop the ability to provide for "one window" access by licensees or registrants and consumers. Building on existing systems and sharing development costs would be a cost-effective way of improving the efficiency of the regulatory system in Ontario. A shared data base and computer links would make it possible for consumers to obtain information about licensees or registrants and for parties to apply for licences or registrations in a seamless way, no matter which regulator's system needed to be accessed.

In the longer term, the Council may work towards a regulatory model where a financial services provider would be issued a single Financial Services Distribution licence with the appropriate separate endorsements reflecting areas of expertise.

(ii) Developing a Public Data Base

The Council would coordinate the development of a public data base for all Ontario licensed or registered financial services providers and the results of any regulatory proceedings involving them. Companies screening applicants to act as representatives for them would have access to information about findings of misconduct or licence revocations. The public would also have access to the data base.

(iii) Developing the Coordination of Administrative Processes

The Council would coordinate administrative processes among regulators by developing systems to facilitate
- sharing information about firms and representatives to reduce duplicative reviews and eliminate the risk that a registrant who is disciplined by one regulator continues to engage in business through another regulator, and providing for joint investigations where a firm offers products supervised by more than one Council member,

- providing common staff training sessions and sharing of expertise , and where appropriate, staff sharing,

- establishing a coordinated or common system of communication to licensees or registrants and the public,

- establishing a common system for the processing of licences or registrations,

- establishing common forms (e.g. applications, certifications, notices, etc.) applicable to all registrants and licensees.

(iv) Coordinating a Common Introductory Course of Studies

The Council would encourage the development of equivalency courses between sectors of the financial services industry designed to recognize the material learned in other financial services sectors. For example, if an equivalency course between life insurance and mutual funds were developed, a life insurance representative wishing to be registered to sell mutual funds would not be required to take the full mutual funds course. He or she would only be required to pass a course covering the material from the full mutual funds course not covered in the life insurance course.

The Council would also explore ways to include some level of information about the other sectors' products and services in the minimum entry courses recognized by the respective Council members.

(v) Harmonization of Rules

The Council would have a mandate to identify ways to enhance the efficiency of financial services regulation in Ontario. This might include initiatives to review the existing rules imposed by each member agency on financial services providers to identify conflicting or overlapping standards and requirements. It would also provide a forum to work to resolve conflicts.

To maximize the efficiency of coordination efforts, discussions on common projects and approaches must take place at the earliest stage of development. The Council would provide a forum at which the regulators could discuss issues of mutual concern and initiate cross-sectoral projects to produce harmonized regulatory solutions.

APPENDIX 1
NEW INSURANCE DISTRIBUTION CONDUCT RULES TO BE ESTABLISHED BY THE IDRB IN ACCORDANCE WITH THE STATUTORY RULE MAKING PROCESS

1. Point-of-Sale Disclosure

It is suggested that the IDRB introduce new rules to govern point of sale disclosure to assure that consumers have sufficient information when they buy insurance to enable them to make informed purchasing decisions, know who they are buying insurance from (contracting company), and know who is accountable for the seller's actions in the sales transaction.

In all insurance sales sufficient information should be provided to enable a consumer to make an informed decision about his or her particular insurance needs. There should be attached to an insurance policy a brief written statement in plain language setting out the major features, benefits and investment risks, if any, of the policy.

2. Protection of Confidentiality of Personal Information

Insurance distribution conduct rules should be introduced to assure protection of confidentiality of personal information. It

should be an act of misconduct for anyone to fail to protect the confidentiality of personal information of insureds and applicants for insurance or to use such information for any purpose other than that for which it was collected.

3. Disclosure of Relationships

A registered insurance representative should disclose the name of the insurance company or licensee by whom they are registered and the fact that the insurance company or licensee, as the case may be, is responsible for supervising the representative.

Where an insurance application is not transmitted directly to an insurance company by a registered insurance representative, the insurance representative should disclose the name of the licensed insurance representative accountable to the consumer for any breaches of distribution conduct rules.

4. Replacement of Restrictions on Individuals Eligible to be Licensed or Registered as Insurance Representatives with Conflict Of Interest And Undue Influence Rules

Existing occupational restrictions on individuals who can be licensed or registered by the IDRB should be repealed from Cabinet regulations upon the introduction by the IDRB of transaction specific conflict of interest and use of undue influence rules.

5. Replacement of Restrictions on Ownership of Corporations Licensed as Insurance Representatives with Conflict Of Interest And Undue Influence Rules

Regulations under the *Registered Insurance Brokers Act,* a majority of the voting shares of a corporate insurance broker must be owned by a registered broker. Regulations under the *Insurance Act* provide that any person owning more than one-half of the total number of issued shares of a corporate agency must be licensed as an agent. Both Acts restrict ownership by foreign shareholders. An insurance company is restricted from owning more than thirty percent of an insurance agency. These restrictions should be migrated to regulations under the Act establishing the IDRB and

eliminated upon introduction by the IDRB of conflict of interest and use of undue influence rules.

6. Standards of Entry and Continuing Education Requirements

The IDRB would be directed to review entry standards and continuing education requirements for individual insurance representatives, taking into consideration standards set for the sale of other financial products

7. Travel Insurance

The *Registered Insurance Brokers Act* exempts from registration, persons registered under the *Travel Industry Act* in respect of travel accident and sickness, baggage or trip cancellation insurance. Regulations under the *Insurance Act* exempt transportation companies from licensing to sell travel insurance. The IDRB would be directed to review these exemptions, consult with interested stakeholders, and make recommendations to the Minister concerning the distribution of travel insurance.